

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6877

BILL NUMBER: SB 311

NOTE PREPARED: Feb 27, 2012

BILL AMENDED: Feb 23, 2012

SUBJECT: Cost-Benefit Analysis for Administrative Rules.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR: Rep. Truitt

BILL STATUS: As Passed House

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) With certain exceptions, this bill requires the Office of Management and Budget (OMB) to prepare for each administrative rule that: (1) has been adopted; and (2) has taken effect; after December 31, 2011, a cost-benefit analysis with respect to the first three years following the rule's effective date. It provides that if the OMB finds that a proposed rule is: (1) an adoption or incorporation by reference of a federal law, regulation, or rule that has no substantive effect on the scope or intended application of the federal law or rule; or (2) a technical amendment with no substantive effect on an existing Indiana rule; the OMB may not prepare a cost-benefit analysis of the proposed rule or with respect to the first three years following the rule's effective date. The bill also requires the OMB to submit its findings that the OMB may not prepare a cost-benefit analysis on the rule to the Administrative Rules Oversight Committee and the Governor.

The bill requires the OMB to submit a cost-benefit analysis to the Governor and the Administrative Rules Oversight Committee not later than six months after the third anniversary of the rule's effective date. It provides that a cost-benefit analysis prepared before or after a rule's adoption and effective date must include certain information, including information concerning: (1) the rule's primary and direct benefits; (2) the rule's secondary and indirect benefits; and (3) any cost savings to regulated persons as a result of the rule. It provides that a cost-benefit analysis may contain additional information that the Governor or the committee requests in writing. It provides that the Governor or the committee may prescribe: (1) the form of a cost-benefit analysis; and (2) the process, deadlines, and other requirements for submitting a cost-benefit analysis. The bill also provides that in preparing a cost-benefit analysis: (1) before a rule's adoption under the existing statute that requires a cost-benefit analysis for proposed rules; or (2) after a rule's adoption and effective date under the act; the OMB shall consider any verified data provided voluntarily by interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule.

The bill provides that if the OMB or an agency is unable to obtain verified data for a cost-benefit analysis, the OMB shall state in the analysis which data were unavailable. It provides that a cost-benefit analysis prepared before or after a rule's adoption is a public document, subject to the following: (1) The OMB or an agency may not require an interested party or a regulated person to provide information in connection with an analysis. (2) If an interested party or a regulated person voluntarily provides information, the OMB or an agency responsible for proposing or administering the rule shall ensure adequate protection of any confidential or proprietary information provided. (3) At least 30 days before presenting the cost-benefit analysis to the Governor and the committee, the OMB shall make the cost-benefit analysis available to interested parties, regulated persons, and nonprofit corporations whose members may be affected by the rule. The bill also provides that if an agency has adopted rules regarding the confidentiality of information, interested parties and regulated persons must submit the information in accordance with the confidentiality rules adopted by the agency to ensure proper processing of confidentiality claims.

Effective Date: July 1, 2012.

Explanation of State Expenditures: The bill's requirements will likely increase administrative expenses for the OMB, but any impact will depend upon the extent that cost-benefit analyses will need to be prepared due to the bill's provisions. It is estimated that the bill's requirements can be accomplished within existing resources.

Executive Order 2-89 and Financial Management Circular (FMC) 2010-4 require state agencies to complete fiscal analyses of proposed rules' impact on state and local government. The OMB does not conduct their own fiscal analysis unless an agency's analysis is incomplete.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of Management and Budget.

Local Agencies Affected:

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